

History of Article

Submitted: February 27, 2021

Revised: March 30, 2022

Accepted: April 15, 2022

Available Online since: April 30, 2022

VOLUME 3 ISSUE 2, APRIL 2022

Editor in Chief:

Assoc. Prof. Dr. Indah Sri Utari, S.H., M.Hum

Universitas Negeri Semarang, Indonesia

Associate Editors:

Prof. Ngboawaji Daniel Nte, Ph.D.

Novena University, Nigeria

Assoc. Prof. Frankie Young, Ph.D.

University of Ottawa, Canada

How to cite:

Kusuma, Ega, and Siti Anisah. 2022. "The Urgency of RCEP in the Development of Indonesia Investment Law". *Journal of Law and Legal Reform* 3, No. 2 (2022): 151-184. <https://doi.org/10.15294/jllr.v3i2.55169>

© 2022 Authors. This work is licensed under a Attribution-NonCommercial-ShareAlike 4.0 International (CC BY-NC-SA 4.0). All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions. This title has been indexed by [Science & Technology Index \(SINTA 3\)](#), [Directory Open Access Journal](#), [Google Scholar](#), and [GARUDA](#)

Type: **Research Article**

The Urgency of RCEP in the Development of Indonesia Investment Law

Ega Prabandari Kusuma¹ , Siti Anisah² 

^{1,2} Faculty of Law, Universitas Islam Indonesia, Special Region of Yogyakarta, Indonesia, 051001

 18410647@students.uii.ac.id

ABSTRACT

The problem of investment regulation in Indonesia has always been a major obstacle for domestic and foreign investors. This study was conducted to analyze the problem of investment regulation in Indonesia, especially in Law No. 11 of 2020 concerning Job Creation after the ratification of the RCEP Agreement, and the urgency of RCEP particularly for the development of investment law in Indonesia. This is normative

research which used descriptive qualitative method to analyze the legal materials. The data was processed systematically based on legal principles. Although Law No. 11 of 2020 has impact on many amendments to the laws, but there are weaknesses in the regulation of investment, which are the lack of transparency, community participation, investment protection, fair and equal treatment implementation, and legal certainty. As long as the response to RCEP is good, the ratification of RCEP will open up opportunities for Indonesia to open market access. Therefore, Indonesian Government needs to remove some restrictions, support ease of doing business, change laws and regulations flexibly, and apply the principle of openness to the public.

Keywords: *Urgency; RCEP, Job Creation Act, Investment*

INTRODUCTION

The One of the aims of the establishment of the Association of Southeast Asian Nations (ASEAN) as stated in the ASEAN Declaration is to maintain close and beneficial cooperation with existing international and regional Organizations with the same aims and objectives, and explore all avenues of closer cooperation among themselves.¹ In its implementation, it is aimed at the existence of the ASEAN Free Trade Area, which aims to increase competitiveness and encourage foreign investment to ASEAN as a favorite area for investing. ASEAN also initiated the establishment of the Regional Comprehensive Economic Partnership (RCEP) as a form of response to the economic dynamics of the ASEAN Economic Community (AEC).

Regional Comprehensive Economic Partnership (RCEP) was first discussed at the 21st ASEAN Summit in Phnom Penh, Cambodia, 18 November 2012 by the leaders of ASEAN member countries and

¹ Zakir Hafez, "The ASEAN Declaration (Bangkok Declaration) 1967," in *The Dimensions of Regional Trade Integration in Southeast Asia* (Brill Nijhoff, 2004), 351–53.

cooperation partner countries. The objective of establishing RCEP is to achieve a comprehensive and mutually beneficial relationship among participating countries, while still prioritizing the establishment of AEC in 2015.² RCEP was also formed as a result of the noodle-bowl effect or overlapping regulations in the ASEAN and Asia Pacific regions. In relation to investment, RCEP facilitates and increases the openness of investment and trade relations between member countries, which ultimately aims to strengthen the global and regional supply chains.

With the entry of Indonesia into the RCEP agreement, it resulted in the presence of foreign investors can absorb labor in the host country of capital; create demand for domestic products as raw materials; increase in foreign exchange, especially foreign investors who are export-oriented; increase state income from the tax sector; transfer of technology and knowledge (know how).³ One of the things that foreign investors pay attention to in investing their capital is the existence of legal certainty which must be the government's top priority by the host country. Therefore, regulations related to the law on foreign direct investment (FDI) which are currently felt to be overlapping must be updated and arranged in accordance with developments in the international business world.⁴

In its development, investment law is not only regulated in Law No. 25 of 2007 on Investment, but also needs to be regulated in several investment treaties, in the form of bilateral, regional and multilateral.⁵ The treaties include BITs, TRIPS, TRIMs, GATS, RCEP, AFTA, ACIA, APEC, and MIGA. RCEP is present in the context of reforming the economy in the fields of goods, investment, intellectual property, trade in service, dispute settlement, economic and technical cooperation and competition. Some of

² Dedi Parna and Irwan Iskandar, "Kepentingan Indonesia Dalam Menggagas Perundingan Regional Comprehensive Economy Partnership" (Riau University, 2017).

³ Sentosa Sembiring, *Hukum Investasi*, (Bandung: Nuansa Aulia, 2007), 24.

⁴ This updating of course maintains the right of the host country to balance the rights of the host country and foreign investors. M. Sornarajah, *The International Law on Foreign Investment*. 2th Ed. (Cambridge: Cambridge University Press, 2004), 196.

⁵ Siti Anisah and Lucky Suryo Wicaksono, *Hukum Investasi*, (Yogyakarta: FH UII Press, 2017), 100.

the objectives of RCEP procurement in the investment sector are liberal, facilitative, competitive investment environment in the region. Under RCEP, investment includes 4 pillars namely promotion, protection, facilitation and liberalization.⁶ The establishment of RCEP is expected to have a direct or indirect influence on improving the Indonesian economy, so that Indonesia needs to make improvements in the investment law system in order to compete in the international arena. At the same time, the challenge faced is how Indonesia should negotiate economic strength policies and implement the agreements that have been ratified consistently.⁷

Legal certainty is a problem that investors have long complained about. The resolution of this problem must be the government's top priority. Legal certainty means definite laws and regulations and certainty in law enforcement. With so many regulations that hinder trade and investment performance, this has implications for the level of effectiveness and the lack of infrastructure as one of the determining factors for foreign investors. To attract investors, especially after the RCEP agreement, the consistency of laws and regulations is a major factor in creating political and economic stability because it is a reflection of the legal certainty of a country. Another effort that must be made to encourage investment growth is to create a conducive business climate.⁸ A conducive business climate for investment in the form of security and ease of doing business. In addition, the government's focus should be on improving the national economy.

With the enactment of the Job Creation Law on October 5, 2020, it is considered a structural reform in Indonesia that is expected to reduce problems that hinder investment. Structural policy adjustments through

⁶ Donna Gultom, "Perjanjian Regional Comprehensive Economic Partnership (RCEP): Peluangnya Bagi Indonesia dan Langkah Pemanfaatannya Sebuah Perspektif Internal," 2020.

⁷ ASEAN Secretariat, "Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership," *Retrieved on April 17 (2012): 2017.*

⁸ Luigi Guiso and Giuseppe Parigi, "Investment and Demand Uncertainty," *The Quarterly Journal of Economics* 114, no. 1 (1999): 185–227.

the Job Creation Act are seen as a stepping stone to focus on long-term economic development. These structural and policy adjustments need to be prepared so that Indonesia can take advantage of opportunities to increase competitiveness and become a momentum as an investment attraction. However, the problems facing Indonesia today are how to simplify licensing, investment requirements, ease of doing business, and structuring derivative regulations from Job Creation Act. After the signing of the RCEP, it turned out that new legal problems arose, considering that there were several inconsistencies in the substance of the regulations in Job Creation Act and RCEP.⁹

On the other hand, the Government of Indonesia seems less serious in addressing the opportunities and challenges of regional economic integration due to the hampered investment sector. The challenges of regional economic integration face internal constraints such as political instability, corruption, deteriorating infrastructure and stricter labor regulations in their implementation, the implementation of free trade cooperation.¹⁰ With global supply chains being hampered, international companies have begun to move their production locations to other countries that are closer so that their supply chains are closer and even perform restorations. This is used to facilitate post-pandemic economic recovery because foreign direct investment (FDI) can be utilized by neighboring countries to increase domestic production capacity and create jobs.¹¹ In addition, the pandemic has changed the flow of globalization in terms of structural changes that have an impact on international trade relations and governance. The International Monetary Fund (IMF) projects that financial growth in developing Asian countries will decline from 5.5 percent in 2019 to 1.0 percent in 2020 with a projected decline in global

⁹ Muhammad Insa Ansari, "Omnibus Law untuk Menata Regulasi Penanaman Modal," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 71.

¹⁰ Nikita Zakharov, "Does Corruption Hinder Investment? Evidence from Russian Regions," *European Journal of Political Economy* 56 (2019): 39–61.

¹¹ OECD, *First Lessons from Government Evaluations of Covid-19 Responses: A Synthesis* (Paris: OECD, 2022).

GDP to fall more than 2% in early 2020.¹² RCEP has potential benefits for Indonesia such as opening of market access, enhancing Foreign Direct Investment (FDI), and increasing Indonesia's Gross Domestic Product (GDP).¹³

So with the ratification of RCEP, it has many potential benefits for Indonesia, but it could be lost if Indonesia does not focus on resolving legal uncertainties. The solution to Indonesia's problems is to oversee the consistency of substance and law enforcement, among others by making structural and policy adjustments to increase the competitiveness of the national economy to attract new investment. Indonesia must have a strategy in implementing RCEP, because it is moving to become a country for imported products. Indonesia must also make the right policy choices, because Law No. 11 of 2020 which is expected to provide opportunities for ease of doing business for investors has actually received many rejections in its implementation. In-depth analysis of these problems is very important for researchers to be able to offer several solutions for improving investment in Indonesia.

Based on the description above, the writer formulates two problem formulations in this research. The first, what are the weakness of investment provisions under Law No. 11 of 2020 on Job Creation related to ratification of RCEP Agreement. Second, how is the urgency of RCEP especially for the development of investment law in Indonesia.

METHOD

This research is a normative research, namely legal research conducted by examining legal materials which focus of study in the form of regulations related to the formulation of the problem, so this research is documentary

¹² A Long and Difficult Ascent, "World Economic Outlook," *International Monetary Fund*, 2020.

¹³ Marcellino Gonzales, "The Role of Law for Small Medium Enterprises (SME's) Protections Faces the Challenges of Regional Comprehensive Economic Partnership (RCEP) in Indonesia," *Indonesian Law Journal* 14, no. 2 (2021): 173–95.

research. The focus of research is to analysis the weakness of investment regulations in Indonesia and the urgency of RCEP especially for the development of investment law in Indonesia. This research uses a statutory approach which is carried out to review regulations related to investment, expecially in Job Creation Act and RCEP. This approach provides analysis for researchers to see if there is a match between one law and another. The legal materials used are primary legal materials in the form of laws and regulations and the RCEP agreement, spesifically investment; secondary legal materials in the form of books, journals, other scientific works; and tertiary legal materials in the form of a dictionary, and encyclopedia. Legal materials collect by conducting a literature study, namely by collecting, reviewing, and systematizing legislation, secondary and tertiary legal materials related to the subject of research. The data analysis method in this research is descriptive qualitative and comparative.

RESULT & DISCUSSION

As it is known that the RCEP Agreement has many advantages for Indonesia, such as Opening of Market Access, Enhancing Foreign Direct Investment in the new industrial sector, and Increasing Indonesia's Gross Domestic Product. However, the problem for Indonesia at the same time is the increasing trade deficit between Indonesia and other RCEP member countries. This can be seen from how the structural and policy adjustments to enhance the competitiveness of the national economy that enable Indonesia.

I. THE WEAKNESS OF INVESTMENT PROVISIONS UNDER JOB CREATION ACT RELATED TO RATIFICATION OF RCEP AGREEMENT

The Indonesian government has ratified the RCEP after the enactment of Law No. 11 of 2020 on Job Creation. The ratification of the Job Creation Act by the DPR on October 5, 2020 has brought developments to the legal system in Indonesia. The overlapping and unsynchronized laws were eventually simplified by cutting regulations into a more open climate for investment. In the Indonesian context, the existence of the Job Creation Act is expected to resolve regulatory conflicts in both horizontal and vertical relationships.¹⁴

Although the Job Creation Act has amended many regulations that were previously in effect, the ratification of RCEP has created new problems related to investment regulations. First, in article 3 of the RCEP Negotiation principle, it is stated that RCEP will include provisions to facilitate trade and investment and to increase transparency in trade and investment relations between participating countries, as well as facilitate the involvement of participating countries in global and regional trade supply chain.¹⁵ In addition, as explained in Article 10.17 Investment Facilitation, it is stated that each Party shall endeavor to facilitate investment between the Parties.¹⁶ These are including through creating the necessary environment for all forms of the investment; simplifying its procedures for investment applications and approvals; promoting the

¹⁴ Eko Noer Kristiyanto, "Urgensi Omnibus Law dalam Percepatan Reformasi Regulasi dalam Perspektif Hukum Progresif," *Jurnal Penelitian Hukum De Jure* 20, no. 2 (2020): 233–44.

¹⁵ ASEAN Secretariat, "Regional Comprehensive Economic Partnership Agreement" (n.d.), <https://rcepsec.org/wp-content/uploads/2020/11/All-Chapters.pdf>.

¹⁶ ASEAN Secretariat, "Regional Comprehensive Economic Partnership Agreement Annex 10B," n.d., <https://rcepsec.org/wp-content/uploads/2020/11/Chapter-10-Annex-10B.pdf>.

dissemination of investment information including investment rules, laws, regulations, policies, and procedures.

However, in practice, investment facilitation and transparency of investment policies still have many obstacles. For example, the rule of law principle implies that at every stage of the law-making process, including the drafting process, the legislation process must apply the principles of participation and openness. However, this Job Creation Act actually has a weakness in terms of public transparency, according to the unconstitutional statement of the Constitutional Court regarding the Job Creation Act which is considered to burden investors by delaying FDI inflows. The Constitutional Court's decision causes uncertainty, the government is prohibited from issuing derivative regulations and the government has a deadline of 2 years to resolve the structural problems.¹⁷

As stated of Law No 15 of 2019 amendment to Law 12 of 2011 in Article 96 on the Formulation of Laws and Regulations, it is stated that in the formation of legislation it is necessary to have public participation. However, the preparation process has not involved any participation from the community, causing various controversies regarding the non-disclosure of information. In addition, with the omnibus law method, the formation of the law is indirectly carried out by combining several rules which makes it difficult for some stakeholders to observe the substance of article by article in a coherent manner. Thus, the cluster of related laws will have an impact on the degradation of the principle of openness in the formation of good laws and regulations.

If we look at the principle of the RCEP agreement which shows transparency in trade and investment relations between the countries, it will show weaknesses when viewed from the regulations in Indonesia, especially the Job Creation Act, the article of which the Constitutional Court states that the Job Creation Act is unconstitutional. In the consideration of constitutional judge Suhartoyo, it was stated that the

¹⁷ Dany Saputra, "Kemelut UU Cipta Kerja Berpotensi Bebani Sentimen Investor," 2021, <https://ekonomi.bisnis.com/read/20211126/9/1470701/kemelut-uu-cipta-kerja-berpotensi-bebani-sentimen-investor> .

procedure for its formation did not meet the requirements of the 1945 Constitution which was definite and systematic, giving rise to legal uncertainty and had to be formally declared invalid. Moreover, the academic text and material for the amendment to the Job Creation Act, it was found in court that it did not provide a space for participation for the community to realize national goals in accordance with the mandate of the opening of the 1945 Constitution, so it is very risky if we do not make good investment policy adjustments in competing with other RCEP member countries.¹⁸

Second, in article 10.1 the definition of investment states that investors have rights granted in accordance with the laws and regulations of the host Party or contracts, such as concessions, licenses, powers, and permits, including for exploration and exploitation of natural resources. In this article it is stated that investors have rights in accordance with those granted by the host country in the form of permits and licenses, but the complexity of the bureaucratic system in Indonesia does not seem to be separated from officials in government and state agencies owned company. For example quite a lot of investors wanted to invest in Pertamina and PLN, but complicated bureaucratic problems caused the resignation of potential investors.¹⁹

In this case, the Job Creation Act has several weak points related to the lack of an explanation of the clause linking one article to other articles that are combined. In terms of licensing, it is stated that there will be an improvement in the investment climate, but in its implementation there are many derivative regulations of the Job Creation Act that have not been optimally implemented, especially due to differences in the character of business activities so that certain regulatory policies are needed. This is what needs to be reviewed by the government, the article is in simplifying

¹⁸ Mahkamah Konstitusi, "MK: Inkonstitusional Bersyarat, UU Cipta Kerja Harus Diperbaiki Dalam Jangka Waktu Dua Tahun," 2021, <https://www.mkri.id/index.php?page=web.Berita&id=17816>.

¹⁹ Rayful Mudassir, "Jokowi Kesal Birokrasi Investasi Masih Ruwet," 2021, <https://kabar24.bisnis.com/read/20211120/15/1468341/jokowi-kesal-birokrasi-investasi-masih-ruwet>.

licensing and eliminating overlapping, if not immediately accelerated achievement of targets will affect foreign investors to seek policy negotiations with Indonesia especially Indonesia has advantages and attractiveness related to the availability of attractive natural resources. attention of foreign investors to come.²⁰

The government bureaucracy is considered to still tend to be left behind and adheres to conventional communication, this makes Indonesia lose in terms of the competitiveness of digital communications. In addition, the regulation overlaps because it is also a restraining factor for investment so that Indonesia is known for its complicated investments. In terms of licensing, investors complain that there are difficulties in getting access to land, land and buildings, especially workers in Indonesia who are not skilled enough to be considered by investors in investing in Indonesia.²¹

Third, the investment regulation on RCEP provides for better investment facilitation provisions that also address investor aftercare, such as assistance in resolving complaints and grievances that may arise.²² The facilities referred to in the RCEP Agreement are related to the quality of human resources in Indonesia, where it was found that the high cost of labor in Indonesia which is not in accordance with the skills possessed resulted in the low ease of doing business in Indonesia, only being held at level 73 in 2021. However, complaints that arise from investors against the host country have not been responded to properly considering that the Job Creation Act only focuses on job creation, not increasing worker productivity. It only touches on structural economic issues of the country with the main focus on facilitating investment and loosening labor regulations, not on fundamental economics. Contrary to the principle that

²⁰ Melya Sarah Yoseva, I Ketut Westra, and A A Sri Indrawati, "Hak Istimewa bagi Investor Asing dalam Berinvestasi di Indonesia Berdasarkan Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal," *Kertha Semaya: Journal Ilmu Hukum* 4 (2015).

²¹ Venti Eka Satya, "Upaya Penciptaan Iklim Investasi yang Kondusif," *Info Singkat* 11 (2019).

²² ASEAN Secretariat, "Summary of the Regional Comprehensive Economic Partnership Agreement Chapter 7," 2020, <https://rcepsec.org/wp-content/uploads/2020/11/Summary-of-the-RCEP-Agreement.pdf>.

RCEP can ultimately focus on investment protection rather than investment liberalization in favor of transparency in investment relationships.²³

Fourth, in article 10.5 the Treatment of Investments states that each party must provide fair and equal treatment to protected investments and full protection and security, in accordance with the minimum standards of customary international law for treating foreigners. Fair and equitable treatment requires each party not to deny justice in any legal or administrative proceedings. Full protection and security requires each party to take such measures as may be reasonably necessary to ensure the protection and security.

The World Economic Forum stated that the main problems of investment are corruption and legal uncertainty. The quality of investment in Indonesia is minimal due to corruption and convoluted state bureaucracy. Even though the simplification of permits has been made for investment, and the On-line Single Submission (OSS) system has been implemented, regulations still face obstacles from the other side in the form of corruption such as KPK data. For example corruption committed by public officials who ask for extra payments in the licensing process. As a result of corruption, the investment climate becomes unhealthy. Investors will think again to invest in a country if the costs incurred in the bureaucracy higher because of the high costs of unofficial activities when doing business.²⁴

Furthermore, according to the World Economic Forum, corruption is the main obstacle to investment due to the practice of bribery, gratification, favoritism, and facilitation by a number of individuals, especially in

²³ ASEAN and ASEAN's FTA Partners, "Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership," 2012, <https://rcepsec.org/wp-content/uploads/2019/10/RCEP-Guiding-Principles-public-copy.pdf>.

²⁴ Kementrian Keuangan, "Media Keuangan: Transparansi Informasi Kebijakan Fiskal Pangkas Regulasi, Permudah Investasi," *Jurnal Keuangan* 13, no. 128 (2018): 24.

licensing arrangements.²⁵ Indonesia's corruption perception index fell again to 37 points in 2020. The decrease in the index was issued by Transparency International shows that Indonesia is one of the most corrupt countries among the G20 countries, which is at the 3rd highest level. Corruption or the high cost excess of unofficial activities are obstacles for foreign investors so that strict and indiscriminate enforcement efforts are a weapon to bring in good investments.²⁶

The licensing cluster is considered to tend to ignore the impact on the environment. The Job Creation Law has also drawn criticism regarding financing for new business actors who are considered not to make it easier for Micro, Small and Medium Enterprises (MSMEs) to participate in investment activities, especially for MSMEs that do not have a Taxpayer Identification Number (TIN) and business licenses. So that MSME actors cannot participate in investment activities within the ASEAN regional scope.²⁷

In terms of investment, the Job Creation Law strongly supports ease of doing business by cutting existing permits. However, on the other hand, the process of making the Job Creation Law received a negative response, due to the minimal participation of the community in public policy making. Public policy is considered only useful for the interests of a few parties without the will of the people. For example, labor regulations and wages are considered to have not provided legal protection and certainty for workers.²⁸

²⁵ Dwi Hadya Jayani, "Korupsi Penghambat Utama Investasi di Indonesia," 2019, <https://katadata.co.id/ariayudhistira/infografik/5e9a4e6183df7/korupsi-penghambat-utama-investasi-di-indonesia> .

²⁶ Lutfiana Fiqry Ichvani and Hadi Sasana, "Pengaruh Korupsi, Konsumsi, Pengeluaran Pemerintah dan Keterbukaan Perdagangan terhadap Pertumbuhan Ekonomi di ASEAN 5," *Jurnal REP (Riset Ekonomi Pembangunan)* 4, no. 1 (2019): 61–72.

²⁷ Jaffry Prabu Prakoso, "Indonesia Terlalu Liberal, Efeknya UMKM Kalah Bersaing," 2021, <https://ekonomi.bisnis.com/read/20210317/9/1368910/indonesia-terlalu-liberal-efeknya-umkm-kalah-bersaing> .

²⁸ May Linda Iswaningsih, I Nyoman Putu Budiarta, and Ni Made Puspasutari Ujianti, "Perlindungan Hukum terhadap Tenaga Kerja Lokal dalam Undang-Undang Nomor 11 Tahun 2020 tentang Omnibus Law Cipta Kerja," *Jurnal Preferensi Hukum* 2, no. 3 (2021): 478–84.

Some of these problems show that between *das sollen* and *das sein* as outlined in the Job Creation Law, they are different from those that apply in society. The reason is, several conflicts occurred when the law was formulated as stated by Crabbe, that "in drafting the law there are other provisions that are limited such as human rights, public rights, the right to obtain information, the right to express opinions, which means the legitimate right of a law, the law will be disturbed if the community's right to participate is ignored."²⁹

The foreign investment law has the principle of openness, legal certainty, and equal treatment. This principle is the application of the principle of fair and equitable treatment which requires the host country to provide investment guarantees, transparency, and stability to investors.³⁰ In terms of investment guarantees, investors will look for a host country that can provide good equity. In addition, transparency is a form of protection for foreign investors.

The non-achievement of the target of foreign capital inflows in Indonesia is the main problem related to the lack of investor confidence to invest in Indonesia. In addition to that, legal certainty, consistency of laws and infrastructure policies in Indonesia are the most highlighted because foreign investors think that Indonesia cannot provide investment guarantees given that the law is unstable.³¹ In addition, Indonesia has not been able to apply the principle of fair and equitable treatment because Indonesia has overlapping central and regional regulations, and complicated bureaucratic flows.

²⁹ Vincent Cyril Richard Arthur Charles Crabbe, *Legislative Drafting Vol I* (Routledge-Cavendish, 2012).

³⁰ Resha Roshana Putri, An-An Chandrawulan, and Prita Amalia, "Peringkat Arus Investasi Indonesia dalam Kerangka Asean-China Free Trade Agreement (Perbandingan dengan Singapura, Malaysia, Thailand, dan Vietnam) Ditinjau dari Prinsip Fair and Equitable Treatment," *Jurnal Hukum & Pembangunan* 48, no. 2 (2018): 275–98.

³¹ KPPIP, "Perkembangan Pembangunan Infrastruktur di Indonesia," n.d., <https://kppip.go.id/tentang-kppip/perkembangan-pembangunan-infrastruktur-di-indonesia/>.

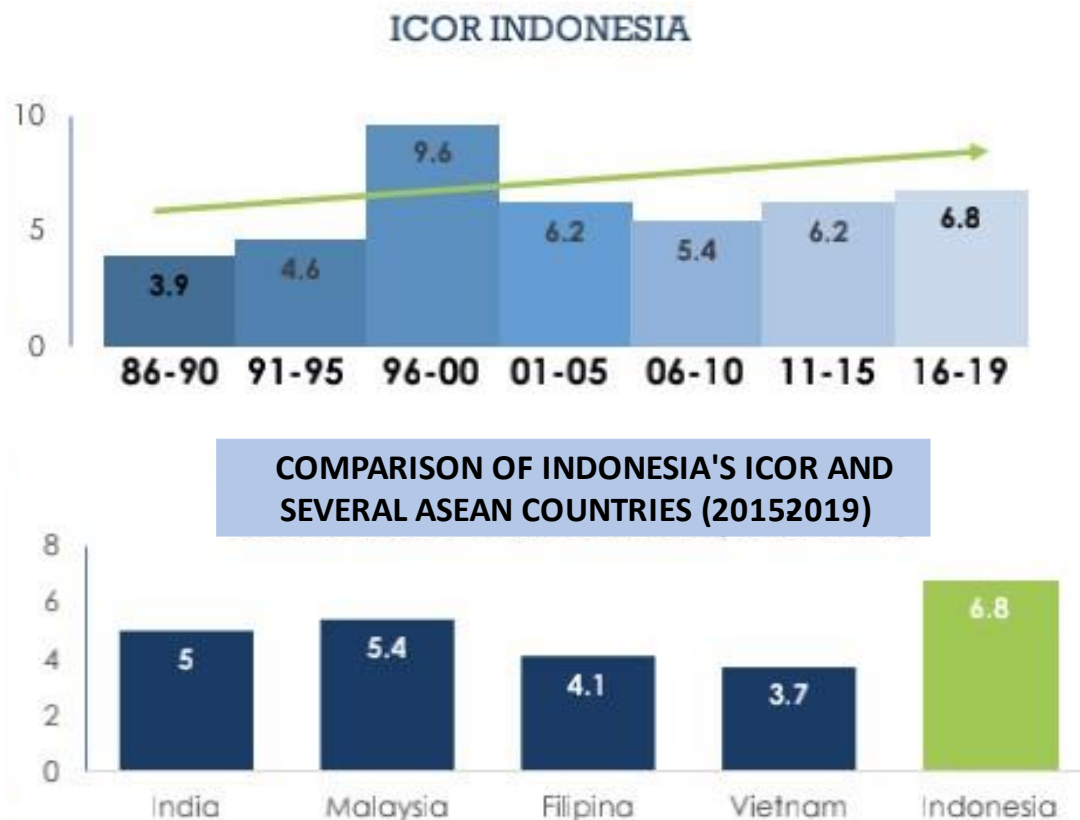


FIGURE 1. Global Competitive Index 4.0 2019 Rangking
Sources: BKPM, 2020

The internal problem that is Indonesia's weakness in dealing with RCEP agreements in general is how legal certainty is for investors in investing in Indonesia.³² The RCEP agreement in this case emphasizes the existence of investment protection rather than investment liberalization. In this case, the investment regulation on RCEP is sought to have a transparent nature in investment relations.³³

So it is undeniable that investment policies must be carried out clearly so as not to hinder the process of forming investment law because the

³² I Made Rusdiko, I Ketut Widia, and I Wayan Rideng, "Legal Certainty of Guarantor for the Existence of Foreign Investors in Indonesia," *Jurnal Hukum Prasada* 6, no. 2 (2019): 123–29.

³³ Direktorat Perundingan ASEAN Ditjen Perundingan Perdagangan Internasional Kementerian Perdagangan Republik Indonesia, "Selayang Pandang RCEP," 2019, https://ditjenppi.kemendag.go.id/assets/files/publikasi/doc_20191215_selayang-pandang-rcep.pdf.

formulation of investment policies is one of the conditions for forming investment regulations. Therefore, every investment activity needs to consider the supporting and inhibiting factors of an investment. In investing in recipient countries, investment risk, bureaucracy, legal certainty, technology transfer, investment guarantee, employment, infrastructure, presence of natural resources, market access, tax incentives, dispute resolution and mechanisms are some things that need to be considered properly.³⁴

According to Article 4 paragraph (2) of Law No. 25 of 2007 on Investment, the government in establishing basic investment policies is obliged to give equal treatment to domestic investors and foreign investors by taking into account the national interest; guarantee legal certainty, business certainty, and business security for investors; as well as opening up opportunities for the development and protection of MSMEs and cooperatives.³⁵ The main purpose of the establishment of the Free Trade Area (FTA) is to create easy access which can be both an opportunity and a threat for Indonesia. That globalization in the form of regional integration is expected to provide equal benefits to all member countries, but becomes a threat when trade liberalization results in an increase in product demand which when the domestic industry is not ready, the increase in imports will have a negative effect on the trade balance.³⁶

Moreover, if we look at the existence of poor infrastructure, poor government and private institutions and institutions, inefficiency of goods, inadequate education and labor, and low labor market efficiency, and low ability to new technologies. This requires Indonesia to improve production efficiency and effectiveness to be able to compete and create a good investment climate.

³⁴ Ana Rokhmatussa'dyah and Suratman, *Hukum Investasi dan Pasar Modal* (Jakarta: Sinar Grafika, 2015).

³⁵ Law No. 25 of 2007 on Investment, art. 4 sec (2).

³⁶ R Roosaleh Laksono and Mohd Haizam Mohd Saudi, "Analysis of the Factors Affecting Trade Balance in Indonesia," *International Journal of Psychosocial Rehabilitation* 24, no. 2 (2020): 3113–20.

The Covid-19 pandemic since 2020 has hampered various investments into a country, where the realization of investment in the first 3 months is predicted to be hampered considering that the eradication of the Covid-19 outbreak has not been completed, thus disrupting the economic cycle.³⁷ Based on this data, there are factors that cause the slow pace of investment, namely investors are still waiting and see to invest their capital considering that the handling of the pandemic has not yet been completed. According to Rizal Calvary Marimbo, a member of the Investment Committee for Communication and Information at BKPM, he stated that the decline in investment will be seen from trade relations involving the epicenter of Covid-19, namely China.³⁸

The Institute for Development of Economics and Finance (INDEF) also predicts that the investment value due to Covid-19 will decrease by IDR 127 trillion.³⁹ In addition, the spread of the Delta variant in Quarter 3-2021 caused disruption of economic activity, which resulted in an economic slowdown with several of Indonesia's main trading partners such as the United States. United States from 12.2% to 4.9%, China from 7.9% to 4.9%, Singapore from 15.2% to 6.5%.⁴⁰

Article 33 of the 1945 Constitution of the Republic of Indonesia states that the ideals and goals of the state are to realize social justice and welfare for all Indonesian people.⁴¹ Thus, the formulation of laws and regulations must not deviate from the existence of Pancasila, the preamble of the Constitution and Article 33 of the NRI Constitution. Whereas in Article 6 paragraph (1) of Law No. 25 of 2007 it is explained that the government

³⁷ Mandala Harefa, "Upaya dan Tantangan dalam Menarik Investasi pada Masa Pandemi," *Pusat Penelitian Badan Keahlian Sekretariat Jenderal DPR RI*, 2021, [https://berkas.dpr.go.id/puslit/files/isu_sepekan/Isu Sepekan---IV-PUSLIT-April-2021-172.pdf](https://berkas.dpr.go.id/puslit/files/isu_sepekan/Isu%20Sepekan---IV-PUSLIT-April-2021-172.pdf) .

³⁸ Kementrian Investasi/BKPM, "Pengaruh Covid-19 terhadap Investasi di Indonesia," 2021, <https://www.investindonesia.go.id/id/artikel-investasi/detail/pengaruh-covid-19-terhadap-investasi-di-indonesia> .

³⁹ *Ibid.*

⁴⁰ Badan Pusat Statistik, "Berita Resmi Statistik," 2021, https://www.bps.go.id/webiste/materi_ind/materiBrsInd-20211105101025.pdf .

⁴¹ 1945 Constitution of the Republic of Indonesia, art 33.

provides equal treatment to all investors from any country conducting investment activities in Indonesia in accordance with statutory provisions.⁴²

Article 13 of Law No. 25 of 2007 on Investment was amended by Law No. 11 of 2020 on Job Creation, explains that the central government or regional government in accordance with their authority provides convenience, empowerment, and protection for cooperatives and micro, small and medium enterprises in the implementation of investment based on norms, standards, procedures, and the criteria set by the Central Government. Investment-related policies have a major influence from the globalization of international trade, namely by not discriminating against regulations for domestic investment and foreign investment. This has become a conflict because Indonesia must make regulations that make it easier for foreign investors and on the one hand the provisions must not conflict with the goals of the state and the ideals of the state in Pancasila and the 1945 Constitution of the Republic of Indonesia.⁴³

As we know that the reason ASEAN partners are reluctant to invest in a country is because of the lack of investment protection that is fair and equitable treatment. Indonesia is one of the countries with the highest number of FDI restrictions such as regulations, taxes, human resources, infrastructure, and others. In the field of regulation, especially the Law on Job Creation, the regulatory burden is borne by investors, even though security is stable and the economy is rated well.⁴⁴

In terms of fair and equitable treatment in the RCEP agreement it is stated that Article 8.4 of National Treatment on RCEP Agreement states that different treatment shall be considered to be less favorable if it modifies the conditions of competition in favor of services. This is not

⁴² Law No. 25 of 2007 on Investment, art 6 sec (1).

⁴³ Nurhani Fithriah, "Penerapan Prinsip Non-Diskriminatif dan National Treatment oleh Indonesia dalam Rangka MEA Berdasarkan Undang-Undang Nomor 25 Tahun 2007 tentang Penanaman Modal," *University Of Bengkulu Law Journal* 2, No. 1 (2017): 80–90.

⁴⁴ Cindy Winni Violita et al., "Peranan Investasi Asing dalam Percepatan Pertumbuhan Ekonomi di Indonesia," *Jatiswara* 35, no. 3 (2020).

supported by the central government arrangement as stated in Law No. 25 of 2007 Article 6 letter b states that the same treatment does not apply to investors who obtain special rights based on an agreement with Indonesia. This is because there are 2 regulations in Indonesia which are considered a violation of the first national treatment, related to the local content requirement, namely the requirements and obligations to buy local products, the second, namely the trade balancing policy, namely the use of imported products that are linked to the value of local products exported. This is still a problem for the central government to date, especially since the government has not been able to provide balanced benefits to investors both from abroad and from within the country, so that fair and equitable treatment is still unable to support the implementation of the RCEP agreement in the context of investment in Indonesia.

Therefore, investment problems in Indonesia cannot be separated from the existence of legal certainty. As a result, investment in Indonesia is often doubted by several ASEAN partner countries because they are considered unable to create predictability, fairness, and efficiency. There is no balance of interests between the community and the authorities, which does not materialize the contents of the second and fourth paragraphs of the opening of the 1945 Constitution. This can be seen by the unequal treatment of investors.

Article 8 in the principle of RCEP Negotiations stated that the negotiations on trade in goods, trade in services, investment and other areas will be conducted in parallel to ensure a comprehensive and balanced outcome. This will be done if the host country and the investor can provide their respective rights and responsibilities in accordance with the applicable provisions both in the RCEP Agreement and in investment regulations in Indonesia, especially the Job Creation Act. Competition between foreign investors and domestic investors shows an unfair gap also the rule of law exists as a benchmark for how *das sein* should be implemented properly. In this case, Law in Action on investment issues in

Indonesia is not appropriate because the existing law enforcement has not provided legal certainty and protection for investors.⁴⁵

II. THE URGENCY OF RCEP ESPECIALLY FOR THE DEVELOPMENT OF INVESTMENT LAW IN INDONESIA

The formation of RCEP is the result of the dependence of large countries such as China to provide motivation for Asian and ASEAN member countries to form mutually beneficial economic areas. China is a new mecca for Indonesia's economic dependence, this is because the new economic power has changed from the European Union and the United States in the west to the east by creating trading blocks to support the supply chain.⁴⁶ Several previous studies have stated that there is concern for Indonesia in exporting manufactured products that will be smaller than other imported products from China.

As previously known, the establishment of RCEP was originally an idea to integrate ASEAN trade with other trading partner countries. The formation of RCEP initiated by Indonesia is the result of ASEAN's response to maintain ASEAN Centrality in the proposal of China which initiated the East Asia Free Trade Agreement (ASEAN+3) and also the Closer Economic Partnership in East Asia (ASEAN+6) initiated by Japan. And also with the level of liberalization of goods in the ASEAN Free Trade Cooperation (ATIGA) and ASEAN+1 (AANZFTA, ACFTA, AIFTA, AJCEP, AKFTA).⁴⁷

⁴⁵ Arifin Halim, "Kepastian Hukum dan Kesederhanaan Administrasi Perpajakan Meningkatkan Investor Berinvestasi di Indonesia," *Ikatan Konsultasi Pajak Indonesia*, 2020, <https://ikpi.or.id/en/kepastian-hukum-dan-kesederhanaan-administrasi-perpajakan-meningkatkan-investor-berinvestasi-di-indonesia/> .

⁴⁶ Ragimun and Imran Rosjadi, "Penguatan Produk Loser Sector Menjadi Produk Unggulan Kerja Sama RCEP," *Badan Kebijakan Fiskal Kementerian Keuangan Republik Indonesia*, 2021, https://fiskal.kemenkeu.go.id/files/berita-kajian/file/1630299480_kajian_rcep.pdf .

⁴⁷ *Ibid.*

As explained in article 1.3 Objective of the Regional Comprehensive Economic Partnership that the purpose of the RCEP is to create a liberal, facilitative, and competitive investment environment in the region, that will enhance investment opportunities and the promotion, protection, facilitation, and liberalization of investment among the parties.⁴⁸ With the existence of RCEP represent almost half of the world's population and contribute around 30 percent of global GDP and more than quarter of world exports so RCEP has greater value than other regional trading bloc.⁴⁹ Several previous studies state that it is recommended that Indonesia strengthen its ability to utilize the Regional Value Chain (RVC) considering that as many as 6,050 Indonesian tariff posts have strong links in terms of exports and imports in the RCEP Area.

In accordance with the important role of investment, the regulation of investment law must be in accordance with the interests of the community. The role of investment in the development of a country is as a source of funds for production activities which are expected to provide benefits not only in the macro context but also in the micro context.⁵⁰ So that investment is declared as the engine of economic growth and development (Engine of growth).⁵¹

Guiding principles have influenced the RCEP's legal structure, RCEP will improve 5 ASEAN+1 FTAs and won't detract from commitments under existing FTAs. Approach poses the challenges to eliminate the noodle bowl syndrome of Asian FTAs. Whereas RCEP to guarantee targets on the GATS and ASEAN+1 FTAs, RCEP will substantially eliminate barriers to services trade.⁵² In addition, to implement RCEP countries commitments to the UN

⁴⁸ ASEAN Secretariat, "Regional Comprehensive Economic Partnership Agreement Article 1.3" (2020), <https://rcepsec.org/wp-content/uploads/2020/11/Chapter-1.pdf> .

⁴⁹ Dwi F Moenardy et al., "Indonesia's Strategy in Facing the Regional Comprehensive Economic Partnership (RCEP)," *Turkish Journal of Computer and Mathematics Education (TURCOMAT)* 12, no. 13 (2021): 6235–43.

⁵⁰ Jonker Sihombing, *Hukum Penanaman Modal di Indonesia* (Alumni, 2009).

⁵¹ Johnny W Situmorang, *Menguak Iklim Investasi Indonesia Pascakrisis* (Esensi, 2011).

⁵² Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership, *Op. Cit*, art. 44 sec (2).

Sustainable Development Goals, services trade is essential to development policy that eradicates poverty and increases employment.

Under the AEC Blueprint 2025, ASEAN aims to strengthen the ACIA-based investment regime through the establishment of an open, transparent and predictable investment regime in the region.⁵³ In the ASEAN Investment Report 2020-2021 it is stated that RCEP provides an opportunity for investors to promote intra-RCEP trade, investment, service as well as developing e-commerce which is very relevant to the existence of efficiency-seeking investment.⁵⁴ In the RCEP investment chapter includes the several elements such as most-favoured-nation, national treatment, schedule of reservations, and investment promotion and facilitation which will help RCEP members attract intraregional investment, FDI, and GVC activities.⁵⁵

The effect of RCEP on the investment climate in Indonesia can be seen from the research conducted by Aprilianti which shows that the reduction in tariffs in the RCEP agreement will increase trade intensity which will lead to welfare and production specialization.⁵⁶ With the reduction of trade barriers in the RCEP agreement, foreign investors will be freer to find more effective factory and production locations.⁵⁷ In addition, evidence shows that when the exchange rate depreciates, it will increase exports because domestic prices are lower than foreign prices, so it has a huge impact on Indonesia's trade.⁵⁸

Since ASEAN countries are still in the developing phase, on the other hand, the development of China in dominating its role in RCEP will result

⁵³ The ASEAN Secretariat, "AEC Blueprint 2025," 2015, https://asean.org/wp-content/uploads/2021/08/AECBP_2025r_FINAL.pdf.

⁵⁴ The ASEAN Secretariat and United Nations Conference on Trade and Development, "ASEAN Investment Report 2021-2022: Investing in Industry 4.0," n.d., [http://investasean.asean.org/files/upload/ASEAN Investment Report 2020-2021.pdf](http://investasean.asean.org/files/upload/ASEAN%20Investment%20Report%2020-2021.pdf).

⁵⁵ *Ibid.* XXIII.

⁵⁶ Ira Aprilianti, "Will RCEP Be Beneficial for Indonesia" (Diperoleh, 2020).

⁵⁷ Mochamad Rifki Maulana, "Perjanjian Kemitraan Ekonomi Komprehensif Regional (Regional Comprehensive Economic Partnership-RCEP) dan Pengaruhnya untuk Indonesia," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 5, no. 1 (2021).

⁵⁸ Ira Aprilianti, "Will RCEP be beneficial for Indonesia," *loc. cit*

in dependence on it. This is not only detrimental to RCEP member countries, but also has an impact on government policies in making rules which will be influenced by the largest entity in the agreement. This is not because in 2021 Indonesia has experienced a trade deficit between exports and imports of goods as much as US \$ 844.5, this is because the value of Chinese imports to Indonesia is US \$ 4.4 billion and the value of Indonesia's exports to China is only 3, 5 billion US\$.

Rachmi Hertanti, Executive Director of IGJ, assessed that the government gave full hope to Indonesia to be able to participate in the Regional Value Chains (RVC) game in the RCEP Agreement. This is because the benefits that Indonesia gets are not only participating in the ratification of the RCEP but can also have a good impact on lead firms in advanced industrial countries related to investment factors.⁵⁹ In this case, the host country can offer foreign investors related to efficient production costs such as tax convenience, cheap labor and permits and ease of doing business.

With a population of 48% of the world's population and a total GDP of 32%, RCEP is a world trade market where foreign direct investment (FDI) into the region accounts for 22% of world FDI.⁶⁰ Impact on Indonesia, RCEP is not only an opportunity for foreign investors to enter but also a challenge as well as an opportunity for export market access in various industrial sectors. In terms of the challenges faced by Indonesia, related to the legal perspective, the problem faced is the regulatory burden because Indonesia must choose the policy of RCEP provisions into its national law.⁶¹

⁵⁹ Indonesia for Global Justice, "RCEP Agreement Has Broad Potential towards People's Lives, the House of Representatives of Indonesia Must Conduct Impact Assessment," 2021, <https://igj.or.id/rcep-agreement-has-broad-potential-towards-peoples-lives-the-house-of-representatives-of-indonesia-must-conduct-impact-assessment/?lang=en> .

⁶⁰ Donna Gultom, "RCEP: The Opportunity for Indonesia and Steps of Its Implementation, An Insider's Perspective," 2020.

⁶¹ An An Chandrawulan and Mursal Maulana, "RCEP: Peluang dan Tantangan bagi Indonesia," 2020, <https://www.hukumonline.com/berita/a/rcep-peluang-dan-tantangan-bagi-indonesia-lt5fb5ec85cf47e?page=4> .

There have been many studies showing and estimating the impact of RCEP on a country's economy. However, for Indonesia, in 2018 Indonesia's exports to the RCEP market were in the eighth position out of 16 countries. In the 2020 UNCTAD report, James Zhan as UNCTAD's investment and enterprise director, stated that with the existence of RCEP it could help revive post-pandemic economic growth, encourage foreign investment, and encourage world trade cooperation, he also stated that 40% of investment in ASEAN come from RCEP members.⁶²

With the Covid-19 pandemic, investment in several countries has decreased, but after this pandemic some foreign investors will look to countries that are able to handle various infrastructure problems, clean energy and a good level of investment. If we look at Indonesia, which is still struggling with the handling of the recent decline in COVID-19 pandemic cases, coupled with the emergence of Covid-19 variants such as delta and omicron, investors will be hesitant in choosing Indonesia as an investment destination. Therefore, the benefits of Indonesia as a member of the RCEP are predicted to be an investment stimulant with progress in terms of exports because if the level of investment value is the same as that of trading partners, there may be similarities in variations in bilateral exports from several partner countries.⁶³

Research conducted by Yunarwanto, in the Study of the Ministry of Economy and Finance shows that the GDP of RCEP member countries statistically affects Indonesia's trade volume by 0.47 percent this is due to geographical proximity.⁶⁴ But on the other hand, Indonesia's trade volume will be increasingly integrated in the RCEP agreement, namely with institutional effectiveness, improvement of corruption and clarity of the

⁶² UNCTAD, "New Asian Trade Bloc Could Help Boost Post Pandemic Investment," *United Nations Conference on Trade and Development*, 2020, <https://unctad.org/news/new-asian-trade-bloc-could-help-boost-post-pandemic-investment>.

⁶³ *Ibid.*

⁶⁴ Yunarwanto Yunar, "Dampak Keikutsertaan Indonesia di dalam RCEP terhadap Volume Perdagangan "Bukti dari Gravity Model," *Kajian Ekonomi dan Keuangan* 3, no. 2 (2019): 151–60.

licensing system and legal certainty. Although GDP is very influential on investment and the Indonesian economy, the tariff setting policy is also a determining factor in regional trade competition such as RCEP.

In terms of the investment regime, to take advantage of competitiveness in the opportunities in the digital industry sector, the RCEP agreement will also encourage the growth of FDI in the new industrial sector which has the potential to become a domestic and global supply chain. So, as I explained earlier, relying solely on business and the industrial climate will not be able to, because investors will look to countries that are most ready to develop the 4th Industrial Revolution which also supports the investment regime in terms of ease of doing business in the Host Country. Therefore, the urgency of RCEP for Indonesia is how to deal with various opportunities that exist both from investment factors and infrastructure development and support opportunities for MSMEs in supporting RCEP market needs. This is in line with the initial idea of changing various regulations as stated in the Job Creation Act.

Foreign investors cannot simply expect laws, regulations, against ASEAN members to remain unchanged during the life of the investment, but foreign investors will pay more attention to investment risks by looking for updated news regarding the policies contained in the ASEAN regional investment treaties such as RCEP.⁶⁵ So it is undeniable that ASEAN member states such as Indonesia may find itself to take interest measures to ensure the investment treaties communities. In this case, the RCEP agreements will provide transparent and predictable investment rules for members to be able to commit to the RCEP draft investment chapter which will provide a positive signal to investors.

Donna Gultom as a Board of Directors Center for Indonesian Policy Studies (CIPS) stated that Indonesia must ratify the Regional Comprehensive Economic Partnership (RCEP) because Indonesia will get real economic benefits by making structural adjustments and policy

⁶⁵ Diane A Desierto, "ASEAN Investment Treaties, RCEP, and CPTPP: Regional Strategies, Norms, Institutions, and Politics," *Wash. Int'l LJ* 27 (2017): 349.

adjustments with the implementation of the Job Creation Act.⁶⁶ Donna also added that the implementation of RCEP will increase investment in creating a new conducive industry by removing tariff barriers.

Realistically, the development of investment in Indonesia is strongly influenced by the existence of the RCEP agreement with its advantages in terms of tariff elimination and harmonization of the rule of origin. With the reduction of tariffs by RCEP member countries, it will affect the supply chain which reduces dependence on outside parties and gives investors the opportunity to invest in member countries. Thus, RCEP provides an opportunity for Indonesia to open market access and provide answers to problems related to harmonization of standards, regulations, mutual recognition, and increasing investment transparency. RCEP has entered into force on January 1, 2022, so it must be addressed appropriately because Indonesia lacks competitiveness, infrastructure, connectivity, and education.

CONCLUSION

The conclusion of this research is: First, Weaknesses of Indonesian investment Law in the Context of RCEP Especially in Law No. 11 of 2020 there is no transparency, public participation, investment protection, fair and equal treatment, and the absence of legal certainty for foreign investors to invest in Indonesia which is not in accordance with the investment objectives in the RCEP Agreement. Besides that, corruption and the Covid-19 pandemic are also one of the obstacles to the quality of investment in Indonesia. Secondly, the urgency of the RCEP Agreement establishes mutually beneficial economic zones especially to support the development of investment in Indonesia. Thus RCEP will encourage the growth of foreign investment to enter Indonesia and at the same time become an

⁶⁶ M. Razi Rahman, "Perekonomian Indonesia Bisa Mendapatkan Manfaat Nyata dari RCEP," *Antaraneews.Com*, 2021, <https://www.antaraneews.com/berita/2610489/perekonomian-indonesia-bisa-mendapatkan-manfaat-nyata-dari-rcep>.

opportunity for Indonesia to give birth to a new industry that is conducive to the existing investment climate, as long as Indonesia is able to respond well. The government should be able to take advantage of this opportunity by eliminating several restrictions, supporting ease of doing business, amending laws and regulations flexibly, and applying the principle of openness to the general public. While, the business actors in Indonesia should also take advantage of this opportunity to innovate superior products that have regional competitiveness such as RCEP. Therefore, the existence of these provisions is needed to create a good investment climate that can provide benefits to both investors and also the host country

REFERENCES

- Ana Rokhmatussa'dyah and Suratman. *Hukum Investasi Dan Pasar Modal*. Jakarta: Sinar Grafika, 2015.
- Ansari, Muhammad Insa. "Omnibus Law untuk Menata Regulasi Penanaman Modal." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 71.
- Aprilianti, Ira. "Will RCEP Be Beneficial for Indonesia." Diperoleh, 2020.
- Arifin Halim. "Kepastian Hukum dan Kesederhanaan Administrasi Perpajakan Meningkatkan Investor Berinvestasi di Indonesia." *Ikatan Konsultasi Pajak Indonesia*, 2020. <https://ikpi.or.id/en/kepastian-hukum-dan-kesederhanaan-administrasi-perpajakan-meningkatkan-investor-berinvestasi-di-indonesia/>.
- ASEAN and ASEAN's FTA Partners. "Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership," 2012. <https://rcepsec.org/wp-content/uploads/2019/10/RCEP-Guiding-Principles-public-copy.pdf>.
- Badan Pusat Statistik. "Berita Resmi Statistik," 2021. https://www.bps.go.id/website/materi_ind/materiBrsInd-20211105101025.pdf.
- Crabbe, Vincent Cyril Richard Arthur Charles. *Legislative Drafting Vol I*. Routledge-Cavendish, 2012.
- Desierto, Diane A. "ASEAN Investment Treaties, RCEP, and CPTPP: Regional Strategies, Norms, Institutions, and Politics." *Wash. Int'l LJ*

27 (2017): 349.

- Direktorat Perundingan ASEAN Ditjen Perundingan Perdagangan Internasional Kementerian Perdagangan Republik Indonesia. "Selayang Pandang RCEP," 2019. https://ditjenppi.kemendag.go.id/assets/files/publikasi/doc_20191215_selayang-pandang-rcep.pdf.
- Dwi Hadya Jayani. "Korupsi Penghambat Utama Investasi di Indonesia," 2019. <https://katadata.co.id/ariayudhistira/infografik/5e9a4e6183df7/korupsi-penghambat-utama-investasi-di-indonesia>.
- Fithriah, Nurhani. "Penerapan Prinsip Non-Diskriminatif dan National Treatment oleh Indonesia dalam Rangka MEA Berdasarkan Undang-Undang Nomor 25 Tahun 2007 tentang Penanaman Modal." *University Of Bengkulu Law Journal* 2, no. 1 (2017): 80–90.
- Gonzales, Marcellino. "The Role of Law for Small Medium Enterprises (SME's) Protections Faces the Challenges of Regional Comprehensive Economic Partnership (RCEP) in Indonesia." *Indonesian Law Journal* 14, no. 2 (2021): 173–95.
- Guiso, Luigi, and Giuseppe Parigi. "Investment and Demand Uncertainty." *The Quarterly Journal of Economics* 114, no. 1 (1999): 185–227.
- Gultom, Donna. "Perjanjian Regional Comprehensive Economic Partnership (RCEP): Peluangnya bagi Indonesia dan Langkah Pemanfaatannya Sebuah Perspektif Internal," 2020.
- — —. "RCEP: The Opportunity for Indonesia and Steps of Its Implementation, An Insider's Perspective," 2020.
- Hafez, Zakir. "The ASEAN Declaration (Bangkok Declaration) 1967." In *The Dimensions of Regional Trade Integration in Southeast Asia*, 351–53. Brill Nijhoff, 2004.
- Harefa, Mandala. "Upaya dan Tantangan dalam Menarik Investasi pada Masa Pandemi." *Pusat Penelitian Badan Keahlian Sekretariat Jenderal DPR RI*, 2021. https://berkas.dpr.go.id/puslit/files/isu_sepekan/Isu_Sepekan---IV-PUSLIT-April-2021-172.pdf.
- Ichvani, Lutfiana Fiqry, and Hadi Sasana. "Pengaruh Korupsi, Konsumsi, Pengeluaran Pemerintah dan Keterbukaan Perdagangan terhadap Pertumbuhan Ekonomi di ASEAN 5." *Jurnal REP (Riset Ekonomi Pembangunan)* 4, no. 1 (2019): 61–72.
- Indonesia for Global Justice. "RCEP Agreement Has Broad Potential

towards People's Lives, the House of Representatives of Indonesia Must Conduct Impact Assessment," 2021. <https://igj.or.id/rcep-agreement-has-broad-potential-towards-peoples-lives-the-house-of-representatives-of-indonesia-must-conduct-impact-assessment/?lang=en> .

Iswaningsih, May Linda, I Nyoman Putu Budiarta, and Ni Made Puspasutari Ujianti. "Perlindungan Hukum terhadap Tenaga Kerja Lokal dalam Undang-Undang Nomor 11 Tahun 2020 tentang Omnibus Law Cipta Kerja." *Jurnal Preferensi Hukum* 2, no. 3 (2021): 478–84.

Jaffry Prabu Prakoso. "Indonesia Terlalu Liberal, Efeknya UMKM Kalah Bersaing," 2021. <https://ekonomi.bisnis.com/read/20210317/9/1368910/indonesia-terlalu-liberal-efeknya-umkm-kalah-bersaing> .

Kementerian Investasi/BKPM. "Pengaruh Covid-19 terhadap Investasi di Indonesia," 2021. <https://www.investindonesia.go.id/id/artikel-investasi/detail/pengaruh-covid-19-terhadap-investasi-di-indonesia> .

Kementerian Keuangan. "Media Keuangan: Transparansi Informasi Kebijakan Fiskal Pangkas Regulasi, Permudah Investasi." *Jurnal Keuangan* 13, no. 128 (2018): 24.

KPPIP. "Perkembangan Pembangunan Infrastruktur di Indonesia," n.d. <https://kppip.go.id/tentang-kppip/perkembangan-pembangunan-infrastruktur-di-indonesia/> .

Kristiyanto, Eko Noer. "Urgensi Omnibus Law dalam Percepatan Reformasi Regulasi dalam Perspektif Hukum Progresif." *Jurnal Penelitian Hukum De Jure* 20, no. 2 (2020): 233–44.

Laksono, R Roosaleh, and Mohd Haizam Mohd Saudi. "Analysis of the Factors Affecting Trade Balance in Indonesia." *International Journal of Psychosocial Rehabilitation* 24, no. 2 (2020): 3113–20.

Long, A, and Difficult Ascent. "World Economic Outlook." *International Monetary Fund*, 2020.

M. Razi Rahman. "Perekonomian Indonesia Bisa Mendapatkan Manfaat Nyata dari RCEP." *Antaraneews.Com*, 2021. <https://www.antaraneews.com/berita/2610489/perekonomian-indonesia-bisa-mendapatkan-manfaat-nyata-dari-rcep> .

Mahkamah Konstitusi. "MK: Inkonstitusional Bersyarat, UU Cipta Kerja Harus Diperbaiki dalam Jangka Waktu Dua Tahun," 2021. <https://www.mkri.id/index.php?page=web.Berita&id=17816>.

- Maulana, Mochamad Rifki. "Perjanjian Kemitraan Ekonomi Komprehensif Regional (Regional Comprehensive Economic Partnership-RCEP) dan Pengaruhnya untuk Indonesia." *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 5, no. 1 (2021).
- Moenardy, Dwi F, SintiaCatur Sutantri, Djoko Roespinoedji, and MohdHaizam Saudi. "Indonesia's Strategy in Facing the Regional Comprehensive Economic Partnership (RCEP)." *Turkish Journal of Computer and Mathematics Education (TURCOMAT)* 12, no. 13 (2021): 6235–43.
- Mudassir, Rayful. "Jokowi Kesal Birokrasi Investasi Masih Ruwet," 2021. <https://kabar24.bisnis.com/read/20211120/15/1468341/jokowi-kesal-birokrasi-investasi-masih-ruwet> .
- Mursal Maulana, and An An Chandrawulan. "RCEP: Peluang dan Tantangan Bagi Indonesia," 2020. <https://www.hukumonline.com/berita/a/rcep-peluang-dan-tantangan-bagi-indonesia-lt5fb5ec85cf47e?page=4> .
- Parna, Dedi, and Irwan Iskandar. "Kepentingan Indonesia dalam Menggagas Perundingan Regional Comprehensive Economy Partnership." Riau University, 2017.
- Putri, Resha Roshana, An-An Chandrawulan, and Prita Amalia. "Peringkat Arus Investasi Indonesia dalam Kerangka Asean-China Free Trade Agreement (Perbandingan dengan Singapura, Malaysia, Thailand, dan Vietnam) Ditinjau dari Prinsip Fair and Equitable Treatment." *Jurnal Hukum & Pembangunan* 48, no. 2 (2018): 275–98.
- Ragimun and Imran Rosjadi. "Penguatan Produk Loser Sector Menjadi Produk Unggulan Kerja Sama RCEP." *Badan Kebijakan Fiskal Kementrian Keuangan Republik Indonesia*, 2021. https://fiskal.kemenkeu.go.id/files/berita-kajian/file/1630299480_kajian_rcep.pdf .
- Rusdiko, I Made, I Ketut Widia, and I Wayan Rideng. "Legal Certainty of Guarantor for the Existence of Foreign Investors in Indonesia." *Jurnal Hukum Prasada* 6, no. 2 (2019): 123–29.
- Saputra, Dany. "Kemelut UU Cipta Kerja Berpotensi Bebani Sentimen Investor," 2021. <https://ekonomi.bisnis.com/read/20211126/9/1470701/kemelut-uu-cipta-kerja-berpotensi-bebani-sentimen-investor> .
- Satya, Venti Eka. "Upaya Penciptaan Iklim Investasi yang Kondusif." *Info Singkat* 11 (2019).

- Secretariat, ASEAN. "Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership." *Retrieved on April 17 (2012)*: 2017.
- — —. Regional Comprehensive Economic Partnership Agreement (n.d.). <https://rcepsec.org/wp-content/uploads/2020/11/All-Chapters.pdf>.
- — —. "Regional Comprehensive Economic Partnership Agreement Annex 10B," n.d. <https://rcepsec.org/wp-content/uploads/2020/11/Chapter-10-Annex-10B.pdf>.
- — —. Regional Comprehensive Economic Partnership Agreement Article 1.3 (2020). <https://rcepsec.org/wp-content/uploads/2020/11/Chapter-1.pdf>.
- — —. "Summary of the Regional Comprehensive Economic Partnership Agreement Chapter 7," 2020. <https://rcepsec.org/wp-content/uploads/2020/11/Summary-of-the-RCEP-Agreement.pdf>.
- Sihombing, Jonker. *Hukum Penanaman Modal di Indonesia*. Alumni, 2009.
- Situmorang, Johnny W. *Menguak Iklim Investasi Indonesia Pascakrisis*. Esensi, 2011.
- The ASEAN Secretariat. "AEC Blueprint 2025," 2015. https://asean.org/wp-content/uploads/2021/08/AECBP_2025r_FINAL.pdf.
- The ASEAN Secretariat and United Nations Conference on Trade and Development. "ASEAN Investment Report 2021-2022: Investing in Industry 4.0," n.d. [http://investasean.asean.org/files/upload/ASEAN Investment Report 2020-2021.pdf](http://investasean.asean.org/files/upload/ASEAN%20Investment%20Report%2020-2021.pdf).
- UNCTAD. "New Asian Trade Bloc Could Help Boost Post Pandemic Investment." *United Nations Conference on Trade and Development*, 2020. <https://unctad.org/news/new-asian-trade-bloc-could-help-boost-post-pandemic-investment>.
- Violita, Cindy Winni, O K Isnainul, Elvira Fitriyani Pakpahan, Michelle Hadlen, Michael Michael, and Danniell Danniell. "Peranan Investasi Asing dalam Percepatan Pertumbuhan Ekonomi di Indonesia." *Jatiswara* 35, no. 3 (2020).
- Yoseva, Melya Sarah, I Ketut Westra, and A A Sri Indrawati. "Hak Istimewa bagi Investor Asing dalam Berinvestasi di Indonesia Berdasarkan Undang-Undang Nomor 25 Tahun 2007 tentang Penanaman Modal." *Kertha Semaya: Journal Ilmu Hukum* 4 (2015).
- Yunar, Yunarwanto. "Dampak Keikutsertaan Indonesia di dalam RCEP terhadap Volume Perdagangan "Bukti dari Gravity Model." *Kajian Ekonomi Dan Keuangan* 3, no. 2 (2019): 151–60.

Zakharov, Nikita. "Does Corruption Hinder Investment? Evidence from Russian Regions." *European Journal of Political Economy* 56 (2019): 39–61.

Acknowledgment

None

Funding Information

None

Conflicting Interest Statement

The authors states that there is no conflict of interest in the publication of this article.

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

About Author(s)

Ega Prabandari Kusuma is a student at Faculty of Law Universitas Islam Indonesia.

Siti Anisah, Dr., S.H., M.Hum., is a permanent lecturer of Faculty of Law Universitas Islam Indonesia since 2001. Some of his recent publications such as *Perbandingan Pengaturan Penyelenggaraan Pendidikan Profesi Advokat (PPA) di Indonesia dan Amerika Serikat* (Jurnal Arena Hukum, 2017), *Klausula Pembatasan dan Pengalihan Tanggung Jawab Pialang Berjangka Dalam Kontrak Baku Pemberian Amanat Secara Elektronik On-Line* (Jurnal Hukum Ius Quia Iustum, 2017), *Batasan melawan Hukum dalam Perdata dan Pidana dalam Kasus Persekongkolan Tender* (Jurnal Hukum Ius Quia Iustum, 2018), *The Use of Per Se Illegal Approach in Proving the Price-Fixing Agreements in Indonesia* (Jurnal Media Hukum, 2020), *Analisis Penguasaan Pasar pada Pelayanan Jasa Bongkar Muat Petikemas oleh PT Pelindo III di Pelabuhan*

L. Say Maumere (Jurnal Hukum Ad Adl, 2021), Penerapan Private Enforcement dalam Penegakan Hukum Persaingan Usaha di Indonesia, Amerika Serikat dan Uni Eropa (Jurnal Penegakan Hukum Indonesia, 2021), Analisis Pasar Bersangkutan dalam Putusan KPPU (Studi Putusan Perkara No. 13/KPPU-I/2019 DAN 10/KPPU/-1/2016), (Jurnal Hukum Ad Adl, 2022), The Sui Generis Nature of Indonesia Investment Authority, Proceedings of the Second International Conference on Public Policy, Social Computing and Development (ICOPOSDEV 2021), Series: Advances in Social Science, Education and Humanities Research (Atlantis Press, 2022).

It's not whether you're right or wrong that's important, but how much money you make when you're right and how much you lose when you're wrong.

George Soros